

## REMARKS

### Objections to the Drawings

The drawings have been amended as suggested by the Examiner to be consistent with the specification. Both a marked up and a clean copy of the drawings are submitted herewith.

### Prior Art Rejections

#### U.S. Patent 5,522,100

Claims 24, 26, 28, 31, 33, 34, 37, 50-52, 55, and 57-69 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,522,100 to Schilling et al. (hereinafter "Schilling"). Schilling relates to a Stretcher with Transfer Board Which Retracts Between Litter and Frame.

#### 1. Claim 24

As discussed during the telephonic interview of December 29, 2003, and summarized in the Interview Summary mailed January 6, 2004, claim 24 requires and Schilling fails to teach the usage of a linkage assembly having a longitudinal axis deviating from being perpendicular to and deviating from being parallel with the longitudinal axis of the rail member at all times during movement of the rail member from the raised position to the lowered position. Reconsideration and allowance of claim 24 is respectfully requested.

#### 2. Claims 26 and 28

Claims 26 and 28 depend from claim 24. At least because claim 24 is believed to be allowable, claims 26 and 28 are also believed to be allowable. Therefore, withdrawal of the rejection of claims 26 and 28 is respectfully requested.

#### 3. Claim 31

Amended claim 31 requires and Schilling fails to disclose "the axis of rotation defining a plane that is parallel to the longitudinal axis of the rail member." The axis of rotation of Schilling does not have a like component with the longitudinal axis of the rail member in the longitudinal, vertical, or sideways directions. Accordingly, a plane that includes the axis of rotation of Schilling can not be parallel to the longitudinal axis of the rail member of Schilling. Therefore, withdrawal of the rejection is respectfully requested.

#### 4. Claims 33, 34, and 37

Claims 33, 34, and 37 depend from claim 31. At least because claim

31 is believed to be allowable, claims 33, 34, and 37 are also believed to be allowable. Therefore, withdrawal of the rejection of claims 33, 34, and 37 is respectfully requested.

5. Claim 50

Amended claim 50 requires and Schilling fails to disclose “the lowered position placing the rail member outside a footprint of the frame.” As can be seen in Fig. 6 of the present application, the lowered position of the rail member places the rail member along side of the frame, and therefore outside of a footprint of the frame. However, as shown in Fig. 6 of Schilling, the lowered position of the rail member 56 places the rail member 56 beneath the frame, and therefore within a footprint of the frame. Therefore, withdrawal of the rejection is respectfully requested.

6. Claims 51-53, 57, 58, and 59

Claims 51-53, 57, 58 and 59 depend from claim 50. At least because claim 50 is believed to be allowable, claims 51, 52, 57, 58 and 59 are also believed to be allowable. Therefore, withdrawal of the rejection of claims 51, 52, 57, 58 and 59 is respectfully requested.

7. Claim 55

Claim 55 requires “a 4-bar linkage assembly.” As noted in the Examiner’s interview summary such a limitation requires an actual type of linkage configuration. Furthermore, that configuration is not present in Schilling. Therefore, withdrawal of the rejection of claim 55 is respectfully requested.

8. Claim 60

Amended claim 60 requires and Schilling fails to disclose “the axis of rotation defining a plane parallel to a plane defined by a side of the patient support.” Schilling discloses an axis of rotation that includes a sideways component. Accordingly, any plane including the axis of rotation cannot be parallel to a plane defined by a side of the patient support. Therefore, withdrawal of the rejection is respectfully requested.

9. Claims 61-63

Claims 61-63 depend from claim 60. At least because claim 60 is believed to be allowable, claims 61-63 are also believed to be allowable. Therefore, withdrawal of the rejection of claims 61-63 is respectfully requested.

10. Claim 64

Claim 64, similarly to claim 55, requires and Schilling fails to disclose a

"4 – bar linkage." Therefore, withdrawal of the rejection of claim 64 is respectfully requested.

11. Claim 65

Amended claim 65 requires and Schilling fails to disclose "the axis of rotation failing to include a sideways component." Schilling discloses an axis of rotation that includes a sideways component. Therefore, withdrawal of the rejection is respectfully requested.

12. Claims 66-69

Claims 66-69 depend from claim 65. At least because claim 65 is believed to be allowable, claims 66-69 are also believed to be allowable. Therefore, withdrawal of the rejection of claims 66-69 is respectfully requested.

U.S. Patent 3,104,402

Claims 38, 39, and 41 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,104,402 to Johnson (hereinafter "Johnson"). Johnson relates to a Safety Side Rail for Patient Support or the Like.

1. Claim 38

Amended claim 38 requires and Johnson fails to disclose "movement of the rail member changes a distance between the rail member and the mattress." Johnson discloses movement of the rail member that maintains a constant distance between the rail member and the mattress. Accordingly, withdrawal of the rejection is respectfully requested.

2. Claims 39 and 41

Claims 39 and 41 depend from claim 38. Because claim 38 is believed to be allowable, claims 39 and 41 are also believed to be allowable. Removal of the rejection of claims 39 and 41 is respectfully requested.

Allowable Subject Matter

Applicant notes with appreciation the Examiner's notation that claims 25, 29, 30, 32, 35, 36, 40, 42-44, 54, and 56 would be allowable if rewritten in independent form and that claims 45 and 47-49 would be allowable if amended to overcome the Examiner's claim objection.

Applicant has amended claims 32, 35, 40, and 42-44 in independent form. Therefore, Applicant submits that these claims are now in condition for allowance. Such action is respectfully requested.

Applicant has also amended independent claim 45 to overcome the Examiner's objection. Therefore Applicant submits that claims 45 and 47-49 are now in condition for allowance. Such action is also respectfully requested.

Final Remarks

The Applicant believes this application is in condition for allowance in its present form and respectfully requests that the Examiner so find and issue a Notice of Allowance in due course. The Examiner is asked to call the Applicant's attorney, Ryan C. Barker, at (317) 684-5295 to address any outstanding issues to further expedite the prosecution of this application for all parties.

If necessary, the Applicant requests that this Response be considered a request for an extension of time for a time appropriate for the response to be timely filed. The Applicant requests that any required fees needed beyond those submitted with this Response be charged to the account of Bose McKinney & Evans, Deposit Account Number 02-3223.

Respectfully submitted,

BOSE McKINNEY & EVANS LLP

A handwritten signature in black ink, appearing to read "Ryan C. Barker", is written over a horizontal line.

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Fig. 7